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January 31, 2012

**VIA ECF**

The Honorable George H. Lowe  
Magistrate Judge  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK  
100 S. Clinton Street  
Federal Building and U.S. Courthouse  
Syracuse, NY 13261-7346

**Re: Utica Mut. Ins. Co. v. Fireman's Fund Ins. Co., No. 6:09-CV-0853 (DNH/GHL)**

Dear Magistrate Judge Lowe:

On behalf of Utica Mutual Insurance Company, we write regarding the discovery deadlines in the June 23, 2011 Uniform Pretrial Scheduling Order. (Dkt. No. 74).

After the August 31, 2011 status conference, the Court filed a Text Minute Entry that states that an "amended scheduling order will be issued after the October conference." Since that entry, the parties have continued with discovery. When Utica requested that FFIC produce all documents responsive to Utica's discovery requests, FFIC responded that it considered the discovery deadlines in the Court's Scheduling Order, including the January 31, 2012 deadline for disclosure of Utica's experts, to be moot due to the Court's August 31, 2011 Minute Entry. Ex. 1, Ms. Lopatto's Email ¶ 4.

Therefore, in accordance with the Court's prior guidance, as reflected in the August 31, 2011 Minute Entry, and the parties' understanding, Utica intends to designate experts based on the deadline in the to-be-entered amended Scheduling Order. Additionally, Utica respectfully requests that the amended scheduling order be issued as soon as possible.

Sincerely,

A handwritten signature in cursive script that reads "Syed S. Ahmad".

Syed S. Ahmad

Enclosure



Magistrate Judge George H. Lowe  
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cc: Mary Lopatto  
Nancy Monarch  
John Finnegan

**EXHIBIT 1**

**Mulder, Bradford**

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**From:** Lopatto, Mary A. [MLopatto@chadbourn.com]  
**Sent:** Tuesday, December 20, 2011 2:14 PM  
**To:** Ahmad, Syed S.  
**Cc:** Monarch, Nancy; Finnegan, John F.; Andrews, Walter J.; McDermott, Patrick  
**Subject:** RE: Utica v. FFIC: Utica's and FFIC's Documents

**Follow Up Flag:** Follow up  
**Flag Status:** Red

1. We are still waiting to receive the documents you have held back in order to make your confidential designations. Can you please advise when we will receive them?
2. Please tell us whether the "claims material" you indicate is available in New Hartford, NY, is on an electronic database or in another form. Also, if electronic, how would we be able to obtain copies of the documents, electronically or in hard copy?
3. Dates we could review documents at Rivkin Radler are: 1/10; 1/12; 1/23; 1/24; 1/25; 1/30; or 1/31. Please let us know what date would work for your side. Also, we will soon send you a list of outstanding document production issues and ask you to tell us whether responsive documents will be available at Rivkin Radler (or elsewhere).
4. We are still compiling our next production to Utica and will get it to you as soon as possible. However, we are perplexed by your mention of an expert disclosure deadline, as the dates contained in the June 23, 2011 Scheduling Order are now moot, due primarily to the stay of this action. You will recall that Judge Lowe deferred amendments to the scheduling order and addressed only the deadlines for written discovery and briefing for the privileged CD issue. In the same minute order, Judge Lowe made clear his intention to issue an amended scheduling order. [See minute order 9/8/11].

We will look forward to hearing from you.

M.A.L.

-----Original Message-----

**From:** Ahmad, Syed S. [mailto:sahmad@hunton.com]  
**Sent:** Thursday, December 15, 2011 1:00 PM  
**To:** Lopatto, Mary A.  
**Cc:** Monarch, Nancy; Finnegan, John F.; Andrews, Walter J.; McDermott, Patrick  
**Subject:** Utica v. FFIC: Utica's and FFIC's Documents

Mary,

We are writing to follow up on various issues related to Utica's and FFIC's documents.

1. From the 39 boxes of documents that we made available at our firm, you had selected 23 boxes for copying. We have identified the documents in those 23 boxes that had to be designated as confidential under the Protective Order. We understand that the copy vendor has provided the first batch of the material to you. For the remaining batch, we are waiting for the vendor to provide the coded documents to us so we can confirm that the confidential designations were made properly. We gave the details about the confidential

designations to the vendor on Monday (12/12). Once the designations are confirmed, which we should be able to do within a few hours, we can release those documents to you and you will have all of the material in the 23 boxes you wanted copied.

2. On November 9, we informed you that, in response to FFIC's document request 19 (and others), we were making available claims material for the Goulds asbestos claims at Utica's New Hartford, New York offices. Based on our estimate, there are approximately 8.5 million pages of documents in the system that would be made available. Please let us know if FFIC will need to review this material so we can schedule the visit.

3. Next month, we are going to make available for your review responsive documents at Rivkin Radler's Uniondale, New York offices. I understand that there will be approximately 75 boxes of documents available for review. This is a rough estimate because many of the files that will be made available are not stored in boxes so we are providing a ballpark figure to give you an idea about the volume. Please let us know a couple of different sets of dates when you will want to review these files, and we will coordinate with Rivkin Radler to firm up a mutually agreeable date for the review.

4. Please let us know when we will receive additional material from FFIC that is responsive to Utica's discovery requests, including material related to FFIC's commutations. By our calculation, Utica's initial expert disclosures are due on January 31, 2012. Particularly given that deadline, and the Scheduling Order in general, FFIC should provide responsive material as soon as possible.

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